

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHRISTOPHER ANTHONY GESINO

Defendant.

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CRIMINAL ACTION NO. 4:13-CR-009-
ALM-CAN

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Now before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on October 16, 2015, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Andrew Williams.

On June 24, 2011, Defendant was sentenced by the Honorable United States District Judge James H. Payne of the Eastern District of Oklahoma to thirty-three (33) months of imprisonment followed by a thirty-six (36) month term of supervised release for the offense of Conspiracy to Commit Fraud in Connection with Access Devices. Transfer of Jurisdiction to the Eastern District of Texas was completed on January 8, 2013, and the case was assigned to United States District Judge Marcia A. Crone. The term of supervised release was revoked on April 3, 2013, and the defendant was sentenced to twenty-one (21) months imprisonment followed by an additional fifteen (15) months of supervised release. On August 15, 2014, Defendant completed his period of imprisonment and began service of his term of supervised release.

On September 17, 2015, the U.S. Probation Officer executed a Petition for Warrant or Summons for Offender Under Supervision [Dkt. 17 Sealed]. The Petition asserted that Defendant violated eight (8) conditions of supervision, as follows: (i) Defendant shall not commit another federal, state, or local crime; and (ii) Defendant shall not unlawfully possess a controlled substance; (iii) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; (iv) Defendant shall notify the probation officer ten days prior to any change in residence or employment; (v) Defendant shall not frequent places where controlled substances are illegally sold, use, distributed, or administered; and (vi) Defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer. .

The Petition alleges that Defendant committed the following acts: (1) The defendant was arrested by Collin County Sheriff's Office on August 14, 2015, for the offenses of Manufacture Delivery Controlled Substance 1>=1G<4G, Second Degree Felony, and Manufacture Delivery Controlled Substance PG2 or 2A<1G, State Jail Felony. The defendant was released on a \$10,000 and \$5,000 surety bond on August 16, 2015; (2) On September 10, 2014, the defendant reported he quit his job at Reliable Staffing August 29, 2014. He failed to notify the probation office 10 days prior to change in employment; (3) On August 14, 2015, Collin County Sheriff's Office executed a search warrant at 3445 Tarkio, Plano, TX. The warrant was issued based on known drug and counterfeiting activity at the residence. The defendant and three other suspects were arrested, including a woman by the name of Michelle Christopher, who the defendant reported he was dating; (4) The defendant failed to submit to a drug test at the probation office as

instructed on May 11, 2015 and failed to attend drug counseling as instructed at Pillar Counseling, Plano, TX, on August 27, 2015; and (5) Defendant failed to make restitution payments for the months of January, May, June, July and August 2015. The current remaining restitution balance is \$13,830.26.

Prior to the Government putting on its case, Defendant entered a plea of true to allegation four (4) of the Petition, specifically that Defendant failed to submit to a drug test at the probation office as instructed on May 11, 2015 and failed to attend drug counseling as instructed at Pillar Counseling, Plano, TX, on August 27, 2015. The Government dismissed the remaining allegations. Having considered the Petition and the plea of true to allegation four (4), the Court finds that Defendant did violate his conditions of supervised release by failing to submit to a drug test at the probation office as instructed on May 11, 2015 and failed to attend drug counseling as instructed at Pillar Counseling, Plano, TX, on August 27, 2015.

Defendant waived his right to allocate before the District Judge and his right to object to the report and recommendation of this Court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant's supervised release be revoked and that he be committed to the custody of the Bureau of Prisons to be imprisoned for a term of eighty days (80) days with no supervised release to follow.

The Court also recommends that Defendant be housed in the Bureau of Prisons Ft. Worth facility, if appropriate.

SIGNED this 16th day of October, 2015.



Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE